IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

OP.No. 18811 of 1999(S)

ITA.487/COCH/1992 OF THE INCOME TAX APPELLATE.TRIBUNAL, COCHIN BENCH
.....

PETITIONER:

THE COMMISSIONER OF INCOME-TAX,
COCHIN

BY STANDING COUNSEL, GOVT. OF INDIA (TAXES)
SRI.P.K.R.MENON(SR.) & SRI.GEORGE K.GEORGE

RESPONDENT:

M/S.SWAPNA TRUST,
GIRINAGAR, COCHIN-16.

THIS ORIGINAL PETITION HAVING COME UP FOR FINAL HEARING ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

O.P.No.18811 of 1999-S

Dated, this the 30th day of July, 2007

JUDGMENT

H.L.Dattu, C.J.

The Revenue has filed this petition under Section 256(2) of the Income Tax Act, 1961 ('Act' for short), inter alia, requesting us to direct the Income Tax Appellate Tribunal to state the case and refer the questions of law that would arise in I.T.A.No.487 of 1992 dated 6th August, 1998 for the assessment year 1984-85. The questions of law raised by the Revenue are as under:

> "1. Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in holding that the order u/s.201(1A) is barred by limitation?
>
> 2. Whether, on the facts and in the circumstances of the case, should not the Tribunal have calculated limitation for the purpose of section 231 only from the date of the order u/s.201(1A)?"

(2) The Tribunal has rejected the appeal filed by the Revenue. The Revenue had filed an application under Section 256(1) of the Act requesting the Tribunal to state the case and refer the questions of law that would arise in I.T.A.No.487 of 1992 for the assessment year 1984-85. The Tribunal has rejected the application.

(3) We have carefully perused the order passed by the Tribunal and also the questions of law raised by the Revenue for consideration and decision by this Court. In our opinion, the questions of law raised by the Revenue require consideration by this Court. Therefore, a direction requires to be issued to the Tribunal to state the case and refer the questions of law that would arise

in I.T.A.No.487 of 1992 dated 6th August, 1998 for the assessment year 1984-85.

(4) Accordingly, the following:

Order

i) The petition is allowed.

ii) A direction is issued to the Tribunal to state the case and refer the questions of law that would arise in I.T.A.No.487 of 1992 dated 6.8.1998 for the assessment year 1984-85 for consideration and decision by this Court, as expeditiously as possible.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns